IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO: 5804 of 2005

Between:

Injimuri Abraham S/o Epharaim
r/o D. No. 4-186/2, Nawabharath Nagar, Bommur-533 102 Rajahmundry Rural, East Godavari District

... PETITIONER

AND

1 Government of A.P., Department of Medical & Health Service

(Vital Statistics), Secretariat, Hyderabad

2 The Registrar of Births and Deaths, Municipal Corporation,

Rajahmundry, East Godavari District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly a Writ in the nature of Writ of Mandamus, declaring the action of the Respondents in not including the name of the petitioner son in the Certificate of Birth issued by the 2nd respondent herein as illegal, arbitrary and unconstitutional and consequently directing the Respondent No.2 herein to enter the name of the petitioner's son Injimuri Epharaim in the Birth Certificate dt. 22-10-2003 issued by him and to pass such other order orders as this Hon'ble Court may deems fit and proper.

Counsel for the Petitioner: MR.B.GAJENDER REDDY

Counsel for the Respondents: GP FOR MEDICAL HEALTH & FAMI.WELFARE

The Court at the stage of admission made the following:

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ORDER:

Petitioner filed this writ petition for a direction to the second respondent to enter the name of his son in the Birth Register on the ground that the oral request made by the him for such a prayer is not considered by the second respondent.

2. Learned counsel for the petitioner relying on **Dipika Arvind Kumar Pancholi Vs. State of Gujarat** and **Dudala Radha Krishna Vs. Govt. of A.P** (W.P.No.26690 of 2003) contends that though the Registration of Births and Deaths Act, 1969 ("the Act") and the rules made thereunder prescribe the limit of 15 years for making the correction, second respondent is bound to entertain the application beyond the period of 15 years also and since he failed to entertain the application, petitioner is obliged to approach this Court.

3. The averments in the petition do not disclose about the petitioner filing an application before the second respondent for making an entry in the Birth Register incorporating the name of his son. Without filing an application, for replies given to oral enquiries made, petitioner cannot have a cause of action to move this Court.

4. In view of ratio in Dipika Arvind Kumar Pancholi's case (1 supra) and Doduala Radha Krishna's case, second respondent cannot deny receipt of the application for incorporation of the name of an unnamed child filed 15 years after the registration of the birth. But, since the petitioner did not even apply for such an entry being made,

this petition is disposed of with a direction to the petitioner to file an application before the second respondent for incorporating the name of his son in the Birth Register. Second respondent shall receive the said application, and dispose of the same as per procedure prescribed under the Act and the Rules made thereunder.

No costs.

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C.Y.SOMAYAJULU, J

Dated: 22.03.2005

RAR

To

1 The Secretary,Department of Medical & Health Service

(Vital Statistics), Government of A.P, Secretariat, Hyderabad

2 The Registrar of Births and Deaths, Municipal Corporation,

Rajahmundry, East Godavari District

3 2 CCs to G.P for Health,Medical & Family Welfare, High Court

Buildings, Hyderabad (OUT)

4 2 CD copies